

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

NEW LANDING UTILITY, INC.)	
)	
Proposed General Increase)	Docket No. 04-0610
in Water and Sewer Rates.)	

NOTICE OF THE PEOPLE OF THE STATE OF ILLINOIS
OF ADDITIONAL EVIDENCE

The People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois (Athe People@) hereby notify the Commission that it has provided to Staff additional evidence produced in connection with People of the State of Illinois v. New Landing Utility, Inc., Gene Armstrong, individually and as President of New Landing Utility, Inc., Case No. 2000 CH 97 in Ogle County Circuit Court, Illinois. Much of this evidence was produced in response to subpoenas and investigation by the Environmental Enforcement Bureau of the Office of the Attorney General in connection with the People's request that a receiver be appointed to manage NLU due to the continuing mismanagement of NLU. The People intend to offer this information in this docket as well.

The information and documentation that the People have shared with the Staff of the Illinois Commerce Commission are the People's Emergency Motion Requesting this Court Appoint a Receiver For New Landing Utility, Inc., (attached as Exhibit 1, People's Emergency Motion) and supplemental information obtained in connection with a subsequent hearing before the court (attached as Exhibit 2, People's Addit'l Information). The next hearing on the People's Emergency Motion is scheduled for

March 18, 2005.

The mismanagement identified in the People's Emergency Motion includes statements from two banks that they could not provide NLU with financing to repair its plant (Exhibit 1, People's Emergency Motion, Pl. Ex. E and F of Ex. 1), a continuation of substantial payments to Gene Armstrong, his affiliated companies and family members (Id. at Pl. Ex. G, H and I of Ex. 1). For example, Matthew Armstrong, the son of Gene Armstrong, received \$4,000 in 2004 (Id. at Pl. Ex. H), while in 2003 he received \$6,250 from NLU (Id. at Pl. Ex. J). Also in late 2004, the attorney for NLU in the Ogle County case requested leave to withdraw because NLU had not paid him. Invoices from that attorney indicate that \$36,032.29 had not been paid to NLU's outside counsel, Williams and McCarthy, with billing going back to October 28, 2003. NLU Response to DR 4.5 (Invoice: Williams and McCarthy, November 11, 2004).

At a subsequent hearing on the motion for a receiver, additional evidence was obtained which showed that ordinary utility expenses were not being paid, yet NLU paid the personal expenses of its President (security system). Exhibit 2 People's Addit'l Information. The evidence included NLU's failure to pay the certified water operator his monthly fee of \$500 since September, 2004; failure to pay Pfoutz, Electric Service, the contractor providing plumbing and electrical services to NLU, for services from September 1, 2004 through January 31, 2005, leaving \$26,730.14 outstanding as of February 26, 2005; payment of utility funds for a security system located at the home of Gene Armstrong, owner of NLU, in Oak Park, Illinois to Tri-Star Alarms, which does not provide any service to NLU in Ogle County, Illinois; additional checks payable from the account of New Landing Utility to Gene Armstrong's son in December, 2003; and billing

records from Gene L. Armstrong and Associates, P.C., showing a pattern of payment from NLU to Gene L. Armstrong and Associates, P.C. from 1998 through August, 2003. According to these documents, fees payable to Gene L. Armstrong and Associates, P.C., through August, 2003 equaled about \$28,000.00. See People's Ex. 2, Pl. Ex. 88. Additional amounts were billed in 2003. See NLU Response to DR 4.5 (e.g., Slip Listings, NLU Rate Appl, pages10-12, showing \$8,625 in additional billings for 7/9/03, 8/1/03, 8/11/03 – 9/23/03). Gene Armstrong has continued to appear for NLU in both Ogle County and before this Commission, raising questions as to whether he is billing NLU at attorney rates for his time (\$250.00 per hour as of April, 2003).

The information and documents contained in these exhibits, and shared with Staff on March 8, 2005, are germane to the issues before the Commission in this docket, and require Commission consideration and analysis.

For the above stated reasons, the People request that the Staff's Motion to Extend the Hearing Date be granted in order to enable Staff to prepare testimony that appropriately incorporates the information stated herein.

Respectfully submitted,

People of the State of Illinois
by LISA MADIGAN, Attorney General

March 11, 2005

By: _____
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VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Susan L. Satter, states that she is an Assistant Attorney General; that she has read the foregoing Notice of the People of the State of Illinois of Additional Evidence in ICC Docket No.04-0610; that she knows the contents thereof; and that to the best of her knowledge, information and belief, based upon reasonably inquiry, the contents are true and correct.

Susan L. Satter
Senior Assistant Attorney General
Public Utilities Bureau

Signed and sworn to before me
this 11th day of March, 2005.

Notary Public